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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,943	12/05/2001	Mario Noli	6023-143US (MI/X13874)	7784
570	7590	11/26/2003	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103-7013			KIM, PAUL D	
			ART UNIT	PAPER NUMBER
			3729	

DATE MAILED: 11/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/005,943	NOLI, MARIO	
	Examiner	Art Unit	
	Paul D Kim	3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10-17 is/are pending in the application.
 - 4a) Of the above claim(s) 11-14 and 17 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 10, 15 and 16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

1. This office action is a response the amendment filed on 11/13/2003.

Response to the Election of Species

2. Applicant's election with traverse of Species B, claims 10, 15 and 16, in Paper No. 12 is acknowledged. The traversal is on the ground(s) that examiner's election of species is improper. This is not found persuasive because even though the examiner's election of species examiner was not provided all of distinct species, examiner believes that the Species A, B and C indicate all the claimed invention. Species B, Fig. 3, shows that the covering tube is slipped over an insulated portion of the cable as recited in newly submitted claims 15 and 16 and Species C, Fig. 4 and 5, show that the covering tube comprises at least two layers including at least an outer material and an inner material coupled together as recited in newly submitted claims 15 and 17.

The requirement is still deemed proper and is therefore made FINAL.

3. This application contains claim11-14 and 17 drawn to an invention nonelected with traverse in Paper No. 12. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Boehm et al. (US PAT. 5,749,656).

Boehm et al. teach a method of making a thermal probe assembly comprising steps of introducing a sensor (16) and exposed lengths of wire into a covering element comprising a covering tube (44) made of insulating material, which is compatible with the insulating material of a sheath of a cable (18,20) as shown in Fig. 3 and covering the sensor and the exposed lengths of wire by overmolding by injection molding the sensor and the exposed lengths with a plastic material, which is compatible with the insulating material of a sheath of a cable (18,20) as shown in Fig. 3 (col. 2, line 33 to col. 3, line 27).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm et al.

Boehm et al. teach all of the limitations as set forth above except a process of placing and blocking the covering element in a mold to prevent from moving during the

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injection molding process. The overmolding covering step disclosed in Boehm et al. is an injection molding process (col. 3, lines 21-27). Even though Boehm et al. does not teach how the insulating plastic material is injected into the covering element, it would be obvious at the time the invention was made to a person having ordinary skill in the art to have provided placing the covering element fit into a mold die prior to perform the injecting molding process to prevent from moving or vibrating during the injection process.

As per claim 16 Boehm et al. teach that the covering tube is covered the insulated portion of the cable as shown in Fig. 3. Even though Boehm et al. does not teach how the covering tube is covered the insulated wires such as slipping the covering tube over the cable as recited in claimed invention, it would have been an obvious to a person of ordinary skill in the art to introduce the covering element over the cable by inserting or slipping as recited in the claimed invention because Applicant has not disclosed that the slipping process of the covering tube as recited in the claimed invention provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with Boehm et al. because the introducing process as recited in the claimed invention would perform equally well with Boehm et al. Therefore, it would have been an obvious to modify the introducing process of the covering tube over the insulated wires of Boehm et al. to obtain the invention as specified in claim 16.

Response to Arguments

8. Applicant's arguments with respect to claims 10, 15 and 16 have been considered but are moot in view of the new ground(s) of rejection. Claim 16 is a dependent of claim 15. Claim 16 is not anticipated by Boehm et al.

Applicant argues that the prior art of invention fails to disclose the claimed invention such as the sensor and the exposed lengths of the wires are overmolded together with a thermoplastic material, which is the same or compatible material of the insulating material. Examiner traverses the argument that Boehm et al. teach processes of introducing into the covering element and covering the sensor and the exposed lengths of wire by overmolding such as injection molding the sensor and the exposed lengths with a plastic material as shown in Fig. 3.

Applicant argues that the prior art of invention fails to disclose the claimed invention such as a cable. Examiner traverses the argument that the cable has at least one pair of conducting wires as recited in line 2 of claim 1. Fig. 3 of Boehm et al. shows that one pair of conducting wires are used for the probe.

Applicant argues that the prior art of invention fails to disclose the claimed invention such as slipping the covering tube over the insulated portion of the cable. Examiner provides the reasons as set forth above.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul D Kim whose telephone number is 703-308-8356. The examiner can normally be reached on Tuesday-Friday between 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5648.



A. DEXTER TUGBANG
PRIMARY EXAMINER

pdk